

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8035 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

MADHUKANTA M SHUKLA

Versus

STATE OF GUJARAT

Appearance:

MR DM THAKKAR for Petitioner

MR PREMAL JOSHI, for respondent Nos.1 to 3

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 17/03/2001

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution of India, the petitioner has sought direction against the respondent authorities to pay, forthwith, the pensionary benefits along with interest, on the premise that there was unnecessary delay on the part of the authorities in

fixing the pension.

When the petition was filed, even the provisional pension was not fixed. Therefore, this Court, while admitting the petition, directed the respondent authority to fix up the provisional pension of the petitioner, as may be admissible under the rules within a period of four weeks from the date of the order.

No affidavit in reply has been filed. The petitioner was working as Teacher since 1952. She had worked as a teacher under respondent No.4 School Management since 1961. She was promoted as Principal with effect from 1.6.88 and continued to work on that post till the date of retirement, like that, 31.10.99. She had, thus, put in more than 37 years of service. She, therefore, claimed full pensionary benefits, as she had served more than 33 years of service. It is the case of the petitioner that despite the long and satisfactory service of more than 37 years, she being the sole lady in the family without any support from any other members, has been suffering undue hardship and harassment without any justifiable ground on account of lethargy and delay part of the respondent authorities.

After having considered the facts and circumstances emerging from the record of the present case, and the submissions of the learned advocates appearing for the parties, it is found that the respondent authority has finalised the pension of the petitioner. In this connection, it may be mentioned that though affidavit in reply is not filed, in a letter addressed to the advocate for the respondents dated 1.1.91 by the respondent No.2, which is placed on record, it is stated that the pension has been finalised by the office and intimation has also been issued to the petitioner, by letter dated 5.12.90. Therefore, it appears that the plea raised about the non-fixation of pension is satisfied and does not survive. However, in case of any difficulty or delay or dispute in fixation or finalisation of pension, it will be open for the petitioner to appropriately move the authority and on being moved, the respondent authority will, expeditiously, deal with and decide such representation, if any, within a period of six weeks thereafter.

With the above observations, at this stage, this petition deserves to be disposed of. Accordingly, it shall stand disposed of without any order as to costs. Liberty is reserved in case of difficulty.

(J.N.Bhatt, J.)

(vjn)